

रजिस्टर्ड नं० पी०/एस० एम० 14.



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, शनिवार, 8 अप्रैल, 1978/18 चैत्र, 1900

हिमाचल प्रदेश सरकार

हिमाचल प्रदेश विधान सभा सचिवालय

अधिसूचनाएं

शिमला-171004, 6 अप्रैल, 1978

संख्या 1-17/78-वि० स०.—हिमाचल प्रदेश विधान सभा प्रक्रिया एवं कार्य संचालन नियमावली के नियम 135 के अन्तर्गत, हिमाचल प्रदेश लैण्ड प्रिजरवेशन

बिल, 1978 (बिल नम्बर 8 आफ 1978) जो हिमाचल प्रदेश विधान सभा में 6 अप्रैल, 1978 को पुरःस्थापित किया गया, सर्वसाधारण की सूचना हेतु, राजपत्र में मुद्रणार्थ प्रेषित किया जाता है ।

वेद प्रकाश,
सचिव ।

Bill No. 8 of 1978.

THE HIMACHAL PRADESH LAND PRESERVATION BILL, 1978

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to provide for the better preservation and protection of certain portions of the territories of Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Himachal Pradesh Land Preservation Act, 1978.

Short title,
extent and
commence-
ment.

(2) It shall extend to the whole of the State of Himachal Pradesh.

(3) It shall come into force at once.

2. In this Act, unless a different intention appears from the subject or context,—

Definitions

(a) “land” means land within any area preserved and protected or otherwise dealt with in the manner provided in this Act and includes benefits to arise out of land and things attached to the earth or permanently fastened to anything attached to the earth;

(b) “cho” means a stream or torrent flowing through or from the mountainous ranges within Himachal Pradesh;

(c) “tree”, “timber”, “forest produce” and “cattle”, respectively, shall have the meanings severally assigned thereto in section 2 of the Indian Forest Act, 1927;

(d) “person interested” includes all persons claiming any interest in compensation to be made on account of any measures taken under this Act;

(e) “Deputy Commissioner” includes any officer or officers at any time specially appointed by the State Government to perform the functions of a Deputy Commissioner under this Act;

(f) “right-holder” includes—

(i) persons not being tenants or mortgagees having rights to, or in land; and

- (ii) persons having rights of collection of forest produce or of grazing or pasture; and
- (g) "erosion" includes the removal or displacement of earth, soil, stones or other materials by the action of wind or water.

CHAPTER II

NOTIFICATION AND REGULATION OF AREAS

Notification of areas.

3. Whenever it appears to the State Government that it is desirable to provide for the conservation of sub-soil water or the prevention of erosion in any area subject to erosion or likely to become subjected to erosion, the State Government may, by notification published in the Official Gazette, make a direction accordingly.

Power to regulate, restrict or prohibit by general or special order, within notified areas certain matters.

4. In respect of areas notified under section 3 generally or the whole or any part of any such area, the State Government may, by general or special order, temporarily regulate, restrict or prohibit—
- (a) the clearing or breaking up or cultivating of land not ordinarily under cultivation prior to the publication of the notification under section 3;
 - (b) the quarrying of stone or the burning of lime at places where such stone or lime had not ordinarily been so quarried or burnt prior to the publication of the notification under section 3;
 - (c) the cutting of trees or timber, or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this section, of any forest produce other than grass save for *bona-fide domestic* or agricultural purposes of a rightholder in such area;
 - (d) the setting on fire of trees, timber or forest produce;
 - (e) the admission, herding, pasturing or retention of sheep, goats or camels;
 - (f) the examination of forest produce passing out of any such area; and
 - (g) the granting of permits to the inhabitants of towns and villages situated within the limits or in the vicinity of any such area to take any tree, timber or forest produce for their own use therefrom or to pasture sheep, goats or camels or to cultivate or erect buildings therein and the production and return of such permits by such persons.

Power in certain cases to regulate, restrict or prohibit, by special order, within notified areas, certain further matters.

5. In respect of any specified village or villages or part or parts thereof comprised within the limits of any area notified under section 3, the State Government may, by special order, temporarily regulate, restrict or prohibit—

- (a) the cultivation of any land ordinarily under cultivation prior to the publication of the notification under section 3;
- (b) the quarrying of any stone or the burning of any lime at places where such stone or lime had ordinarily been so quarried or burnt prior to the publication of the notification under section 3;

- (c) the cutting of trees or timber or the collection or removal or subjection to any manufacturing process, otherwise than as described in clause (b) of this section, of any forest produce for any purposes ; and
- (d) the admission, herding, pasturing or retention of cattle generally other than sheep, goats and camels or of any class or description of such cattle.

6. In respect of areas notified under section 3 generally or the whole or any part of any such area, the State Government may, by general or special order, direct—

Power to require execution of works and taking of measures.

- (a) the levelling, terracing, drainage and embanking of fields;
- (b) the construction of earth works in fields and ravines;
- (c) the provision of drains for stream water;
- (d) the protection of land against the action of wind or water;
- (e) the training of streams; and
- (f) the execution of such other works and the carrying out of such other measures as may, in the opinion of the State Government, be necessary for carrying out the purposes of this Act.

7. Every order made under sections 4, 5 or 6 shall be published in the Official Gazette and shall set forth that the State Government is satisfied, after due inquiry, that regulations, restrictions, prohibitions or directions contained in the order are necessary for the purpose of giving effect to the provisions of this Act.

Necessity for regulation, restriction or prohibition to be recited in the order under sections 4, 5 or 6, and publication of order.

8. (1) When in respect of any area a notification has been published under section 3; and—

- (a) upon such publication any general order made under section 4 or section 6 becomes applicable to such area, or
- (b) any special order under sections 4, 5 or 6 is made in respect of such area,

Proclamation of regulations, restrictions and prohibitions and admission of claims for compensation for rights which are restricted or prohibited.

the Deputy Commissioner shall cause public notice of the provisions of such general or special order to be given, and if the provisions of any such order restrict or prohibit the exercise of any existing rights, shall also publish in the language of the country and in every town and village the boundaries of which include any portion of the area within or over which the exercise of any such rights is so restricted or prohibited, a proclamation stating the regulations, restrictions and prohibitions, which have been imposed by any such order, within the limits of such area or in any part or parts thereof, fixing a period of not less than three months from the date of such proclamation and requiring every person claiming any compensation in respect of any right so restricted or prohibited, within such period either

to present to such officer a written notice specifying, or to appear before him and state the nature and extent of such right and the amount and particulars of the compensation, if any, claimed in respect thereof.

(2) Any claim not preferred within the time fixed in the proclamation made under sub-section (1), shall be rejected:

Provided that, with the previous sanction of the Commissioner, the Deputy Commissioner may admit any such claim as if it had been made within such period.

Power to fix time within which work to be executed, etc.

9. (1) When an order has been issued under section 6, the Deputy Commissioner may by notice require the owner or occupier of the land to execute such works or take such measures as may be specified in the notice.

(2) Every such notice shall state the time within which the works are to be executed or measures are to be taken.

(3) A person aggrieved by an order contained in such a notice as aforesaid may, within thirty days from the service of such notice or within such longer period as the Deputy Commissioner may allow in this behalf, serve a notice of his objections on the Deputy Commissioner in such manner as may be provided by the rules made under this Act.

(4) If and in so far as an objection under this section is based on the ground of some informality, defect or error in or in connection with the notice, the Deputy Commissioner shall dismiss the objection, if he is satisfied that the informality, defect or error was not a material one.

(5) If the objection is brought on all or any of the following grounds that is to say—

- (a) that the notice might lawfully have been served on the occupier of the land in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served;
- (b) that some other person, being the owner, occupancy-tenant, mortgagee with possession, or lessee, or farm-holder, or possessing some other right in or over the land to be benefited, ought to contribute towards the expenses of executing any works or taking any measures required;
- (c) where the work or measure is work or measure for the common benefit of the land in question and other land, that some other person being the owner or occupier of land to be benefited, ought to contribute towards the expenses of executing any works or taking any measures required;

the objector shall serve a copy of his notice of objection on each other person referred to, in clauses (a) to (c) and on the hearing of the objection the Deputy Commissioner may make such order as he thinks fit with respect to the person by whom any work is to be executed or measure is to be taken and the contribution to be made by any other person towards the cost of the work or measure, or as to the proportions in which any expenses which may become recoverable by the Deputy Commissioner under sub-section (6) are to be borne by the objector and such other persons;

Provided that no such order shall be made unless the person who is likely to be affected thereby has been given a reasonable opportunity of being heard.

In exercising his power under this sub-section the Deputy Commissioner shall have regard—

- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works and measures required; and
- (b) in any case, to the degree of benefit to be derived by the different persons concerned.

(6) Notwithstanding anything to the contrary contained in any law for the time being in force, no person required by a notice or an order under this section to execute any work or to take any measure shall be required to obtain the consent of any other person before complying with such notice or order.

(7) Subject to such right of objection as aforesaid and the right of appeal under section 15, if the person required by the notice to execute the works or to take the measures fails to execute the works and take the measures indicated within the time thereby limited, the Deputy Commissioner may himself or by an agent execute the works or take the measures and recover from that person the expenses reasonably incurred by him in so doing:

Provided that it shall not be necessary for the Deputy Commissioner to wait for the decision of any objection other than an objection under clause (a) of sub-section (5), or an appeal against any decision on such objection, before taking action under this sub-section.

(8) If the cost of any work executed or any measure taken by any person remains unpaid by the person from whom it is due after the date specified in a notice issued in this behalf by the Deputy Commissioner or such other date as is fixed by him, such cost shall be recoverable as an arrear of land revenue and a certificate issued by the Deputy Commissioner in this behalf shall be final and conclusive evidence of the sum so recoverable and the person liable for the same.

(9) Every order issued under this section shall be published in such manner, as may be prescribed in the rules made under this Act, and upon such publication every person affected thereby shall, unless the contrary be proved, be deemed to have had due notice thereof.

(10) The Deputy Commissioner, may, by general or special order, authorise any revenue officer subordinate to him to enquire into any objection that may be brought under this section:

Provided that no final order on any such objection shall be passed except by the Deputy Commissioner himself.

(a) In making an order on objections brought under this section, the Deputy Commissioner shall be guided by such rules, if any, as the State Government may make in this behalf.

(b) For the purposes of this section, the expression "estate" shall have the meaning assigned thereto in the Himachal Pradesh Land Revenue Act, 1953.

CHAPTER III

POWER TO ENTER UPON AND DELIMIT NOTIFIED AREAS AND BEDS

Power to enter upon, survey and demarcate local areas notified under section 3.

10. It shall be lawful for the Deputy Commissioner and any other person, as may be authorised by him, from time to time, as occasion may require,—

- (a) to enter upon and survey any land comprised within any area in regard to which any notification has been issued under section 3 or in regard to which a notification is proposed to be issued under section 6;
- (b) to erect bench-marks on and to delimit and demarcate the boundaries of any such area; and
- (c) to do all other acts and things which may be necessary in order adequately to preserve or protect any land or to give effect to all or any of the provisions of this Act:

Provided that reasonable compensation, to be assessed and determined in the manner in this Act provided, shall be made in respect of any damage or injury caused to the property or rights of any person in carrying out any operations under the provisions of this section.

CHAPTER IV

INQUIRY INTO CLAIMS AND AWARD OF COMPENSATION

Inquiries into claims and awards thereupon.

11. (1) The Deputy Commissioner shall—

- (a) fix a date for inquiring into all claims made under section 8 and may in his discretion, from time to time, adjourn the inquiry to a date to be fixed by him;
- (b) record in writing all statements made under section 8;
- (c) inquire into all claims duly preferred under section 8; and
- (d) make and award upon each such claim, setting out therein the nature and extent of the right claimed, the person or persons making such claim, the extent, if any, to which, and the person or persons in whose favour, the right established, the extent to which it is to be restricted or prohibited and the nature and amount of the compensation, if any, awarded.

(2) For the purposes of every such inquiry the Deputy Commissioner may exercise all or any of the powers of a civil court in the trial of suits under the Code of Civil Procedure.

(3) The Deputy Commissioner shall announce his award to such persons interested, or their representatives, as are present and shall record the acceptance of those who accept it. To such as are not present, the Deputy Commissioner shall cause immediate notice of his award to be given.

12. (1) In determining the amount of compensation the Deputy Commissioner shall be guided, so far as may be, by the provisions of sections 23 and 24 of the Land Acquisition Act, 1894, and as to matters which cannot be dealt with under those provisions, by what is just and reasonable in the circumstances of each case.

Method of awarding compensation and effect of such award.

(2) The Deputy Commissioner may, with the sanction of the State Government and the consent of the person entitled, instead of money, award compensation in land or by reduction in revenue or in any other form.

(3) If in any case, the exercise of any right is prohibited for a time only, compensation shall be awarded only in respect of the period during which the exercise of such right is so prohibited.

CHAPTER V

PROCEDURE, RECORDS AND APPEAL

13. (1) For every area, notified under section 3, the Deputy Commissioner shall prepare a record setting forth the nature, description, local situation and extent of all rights mentioned in section 4 and section 5—

Record of rights in respect of notified areas.

(a) existing within such area at the time of the publication of the notification relating thereto under section 3;

(b) regulated, restricted, or prohibited by any order under section 4 or section 5.

(2) When any award is made under section 11 its effect upon any right shall also be recorded therein.

(3) The record prepared under this section shall be presumed to be correct until contrary is proved or a new entry lawfully substituted therefor.

14. (1) Upon the publication of a notification issued under any of the provisions of this Act, the Deputy Commissioner shall cause public notice of the substance thereof to be given at convenient places in the locality to which such notification relates.

Mode of proclaiming notifications and of serving notices, orders and processes, issued under the Act.

(2) The procedure prescribed in sections 21, 22 and 23 of the Himachal Pradesh Land Revenue Act, 1953, shall be followed, as far as may be, in proceeding under this Act.

15. Every order passed and every award made by a Deputy Commissioner under this Act shall, for the purposes of appeal, review and revision, respectively, be deemed to be the order of a Collector within the meaning of sections 14, 15, 16 and 17 of the Himachal Pradesh Land Revenue Act, 1953:

Appeal, review and revision.

Provided that nothing in this Act contained shall be deemed to exclude the jurisdiction of any civil court to decide any dispute arising between the persons interested in any compensation awarded as to the apportionment or distribution thereof amongst such persons or any of them.

CHAPTER VI PUNISHMENTS, BAR OF SUITS AND RULES

Punishments
for offences.

16. Any person who, within the limits of any area notified under section 3, commits any breach of any regulation made, restrictions or prohibitions imposed, order passed or requisition made under sections 4, 5, 6 or 9 or obstructs or resists in any way whatever the execution of acts or things done under section 10, shall be punished with imprisonment for a term which may extend to 6 months or with a fine which may extend to five hundred rupees, or with both.

Application
of provisions
of the
Indian Forest
Act,
1927.

17. The provisions of sections 52, 54, 55, 56, 57, 58, 59, 60, 61, 62, 64 (excluding the last sentence), 66 and 73 of the Indian Forest Act, 1927 shall, so far as applicable, be read as part of this Act and for the purposes of those provisions, every offence punishable under section 16 shall be deemed to be a "forest offence" and every officer employed in the management of any area notified under section 3 as caretaker or otherwise, shall be deemed to be a forest officer.

16 of 1927

Power to
try offences
summarily.

18. The Chief Judicial Magistrate or any Judicial Magistrate of the first class specially empowered in this behalf by the State Government shall try summarily, under the Code of Criminal Procedure, 1973, any forest offence punishable with imprisonment for a term not exceeding six months, or with fine not exceeding five hundred rupees, or with both.

2 of 1974

Power to
compound
offences.

19. (1) The State Government may, by notification in the Official Gazette, empower a Gazetted Forest Officer—

(a) to accept from any person against whom a reasonable suspicion exists that he has committed any forest offence, other than an offence specified in section 62 of the Indian Forest Act, 1927, a sum of money by way of compensation for the offence which such person is suspected to have committed; and

16 of 1927

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof as estimated by such officer.

(2) On the payment of such sum of money, or such value, or both, as the case may be, to such officer, the suspected person, if in custody, shall be discharged, the property, if any, seized shall be released, and no further proceeding shall be taken against such person or property.

(3) The sum of money accepted as compensation under clause (a) subsection (1) shall in no case exceed the sum of five hundred rupees in each case.

20. No suit shall lie against the State Government for anything done under this Act, and no suit shall lie against any public servant, for anything done, or purporting to have been done, by him, in good faith, under this Act.

Bar of suits.

21. (1) The State Government may make rules, consistent with this Act,—

Power to make rules.

- (a) regulating the procedure to be observed in any inquiry or proceeding under this Act; and
- (b) generally for the purpose of carrying into effect all or any of the provisions of this Act.

(2) All rules made under this section shall be published in the Official Gazette.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of not less than fourteen days, which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session in which it is so laid or the sessions aforesaid, the Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

2 of 1900
31 of 1966
of 2004 B.K.

22. The Punjab Preservation Act, 1900, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966 and the Mandi State Anti-Erosion Act, 2004 B.K., as in force in the areas comprised in the erstwhile princely State of Mandi, are hereby repealed:

Repeal and savings

Provided that anything done or any action taken, including rules made, notifications issued or proceedings commenced or continued under the provisions of the Acts hereby repealed shall, unless it is inconsistent with the provision of this Act, be deemed to have been done, taken, made, issued, commenced or continued under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

The Punjab Land Preservation Act, 1900, the object of which is to provide for the better preservation and protection of certain areas subjected to soil erosion, is in force in the areas added to Himachal Pradesh under section 5 of the Punjab Reorganisation Act, 1966. The Mandi State Anti-Erosion Act, 2004 B.K. is in force in the areas which comprised in the erstwhile princely State of Mandi. In the remaining areas of Himachal Pradesh there is no such corresponding law. With a view to bring about uniformity, it is intended to have one unified law on the subject for the whole of Himachal Pradesh. The Bill seeks to achieve the aforesaid object.

SIMLA:
The , 1978.

DEVI SINGH,
Minister-in-charge.

FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for the payment of compensation to the right-holders, whose rights are to be restricted, abridged or prohibited, under clauses 4, 5 and 6. The quantum of compensation, so payable, shall depend upon the extent of the programmes/schemes required to be prepared or undertaken by the Forest Department under the provisions of this Bill. Thus the amount payable as compensation cannot be exactly worked out. There will be no additional expenditure on establishment, as the existing machinery of the Forest Department is to be utilized for the implementation of the provisions of this Bill.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the Government to make rules for carrying out the purposes of this Bill. The rules so made shall be laid before the State Legislature. The proposed delegation is normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

(Forest Deptt. File No. 15-4/71-S.F.)

The Governor of Himachal Pradesh having been informed of the subject matter of the Himachal Pradesh Land Preservation Bill, 1978, recommends, under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly.

शिमला-171004, 6 अप्रैल, 1978

संख्या 1-15/78-वि0स0.—हिमाचल प्रदेश विधान सभा प्रक्रिया एवं कार्य संचालन नियमावली के नियम 135 के अन्तर्गत, हिमाचल प्रदेश रिपीलिंग बिल, 1978 (बिल नम्बर 9 आफ 1978) जो हिमाचल प्रदेश विधान सभा में 6 अप्रैल, 1978 को पुरःस्थापित किया गया, सर्वसाधारण की सूचनार्थ राजपत्र में मुद्रण हेतु प्रेषित किया जाता है ।

वेद प्रकाश,
सचिव ।

Bill No. 9 of 1978.

THE HIMACHAL PRADESH REPEALING BILL, 1978

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to repeal certain enactments.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-ninth Year of the Republic of India, as follows:—

1. This Act may be called the Himachal Pradesh Repealing Act, 1978.

Short title

2. The enactments specified in the Schedule hereto, except the Himachal Pradesh Land Holdings Tax Act, 1974, shall stand repealed from the date of commencement of this Act and the Himachal Pradesh Land Holdings Tax Act, 1974, shall and shall be deemed to have been repealed with effect from the 1st day of April, 1976.

Repeal of certain enactments.

3. The repeal by this Act of any enactment shall not,—

Savings.

- (a) affect any other enactment in which the repealed enactment has been applied, incorporated or referred to, or
- (b) revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure, or other matter or thing not now existing or in force, or
- (c) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder, or
- (d) affect any right, title, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed, or
- (e) affect any remedy or proceeding in respect thereof or any release or discharge of, or from, any debt, penalty, obligation, liability, claim or demand, or any indemnity already granted, or the proof of any past act or thing under any enactment so repealed, or
- (f) affect any principle or rule of law, or established jurisdiction, form, or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same, respectively, may have been in any manner affirmed, or recognised or derived by, in or from enactment hereby repealed, or
- (g) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed, or
- (h) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment, as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been passed.

21 of 1974

21 of 1974

THE SCHEDULE
(See section 2)

Year	Number	Short title	Extent of repeal
1	2	3	4
1806	Bengal Regulation 17 of 1806.	The Bengal Land (Redemption and Foreclosure) Regulation, 1806 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1903	Punjab Act No. II of 1903.	The Punjab Court of Wards Act, 1903, as in force in the areas as comprised in Himachal Pradesh immediately before 1st November, 1966.	The whole.
1798	Bengal Regulation No. I of 1798.	The Bengal Land (Conditional Sales) Regulation, 1798 as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re- organisation Act, 1966.	The whole.
1963	Punjab Act No. 25 of 1963.	The Punjab Thur and Sem Lands Reclamation Act, 1963, as in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966.	The whole.
1974	Himachal Pradesh Act No. 21 of 1974.	The Himachal Pradesh Land Holdings Tax Act, 1974.	The whole.

STATEMENT OF OBJECTS AND REASONS

A number of Acts were extended from time to time in the past to Himachal Pradesh. Most of the Acts have since been repealed or replaced by unified laws, but some still remain. The Punjab Court of Wards Act, 1903 is one such Acts which was made applicable to Himachal Pradesh under the Himachal Pradesh (Application of Laws) Order, 1948 and has continued to be in force in Himachal Pradesh. The Act in question, framed by the Government of Punjab, has been repealed by them in the year 1956. The desirability of continuing this Act in Himachal Pradesh has been considered and it has been found that this Act is no longer necessary.

2. Similarly, out of the laws in force in the areas added to Himachal Pradesh under section 5 of the Punjab Re-organisation Act, 1966, the following three are still in force in these areas:—

- (i) The Bengal Land (Redemption and Foreclosure) Regulation, 1806,
- (ii) The Bengal Land (Conditional Sales) Regulation, 1798, and
- (iii) The Punjab Thur and Sem Lands Reclamation Act, 1963.

3. The Committee on the Unification of Laws recommended that these enactments should be repealed. The matter was examined in consultation with the Deputy Commissioners concerned, and here again the finding is that these enactments are serving no purpose, whatsoever.

4. Lastly, the Himachal Pradesh Land Holdings Tax Act, 1974 was enacted with a view to augmenting the State revenues. In view of the imposition of a tax on certain articles through the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Ordinance, 1976, subsequently replaced by an Act, it has been considered necessary to do away with the Land Holding Tax w.e.f. 1-4-1976.

5. In view of the above reasons, it has become necessary to repeal the enactments mentioned above. This Bill seeks to achieve that objective.

SIMLA:
, 1978.

JAGDEV CHAND,
Minister-in-charge.

FINANCIAL MEMORANDUM

The repeal of the Himachal Pradesh Land Holdings Tax Act, 1974, is likely to result in abandonment of revenue to the State exchequer, since with this repeal, the Government will have to forego the tax which was imposed under the Act. But, at the same time, not only the short-fall will be made good by the new Act, i.e., the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Act, 1976, but there will also be a sizable rise in revenues on this account under the new taxation levied thereunder. Hence there would be no loss to the State exchequer consequent upon the repeal of this Act.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

(Revenue Department File No. 10-16/74-Rev. B.)

The Governor, having been informed of the subject matter of the Himachal Pradesh Repealing Bill, 1978, which seeks to repeal the Himachal Pradesh Land Holdings Tax Act, 1974, along with others, recommends under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly of Himachal Pradesh.

शिमला-171004, 6 अप्रैल, 1978

संख्या 1-14/78-वि०स०.—हिमाचल प्रदेश विधान सभा प्रक्रिया एवं कार्य संचालन नियमावली के नियम 135 के अन्तर्गत, हिमाचल प्रदेश डैट रिडक्शन (अमेण्डमेण्ट) बिल, 1978 (बिल नम्बर 10 आफ 1978) जो हिमाचल प्रदेश विधान सभा में 6 अप्रैल, 1978 को पुरःस्थापित किया गया, सर्वसाधारण की सूचनार्थ राजपत्र में मुद्रित करने हेतु प्रेषित किया जाता है ।

वेद-प्रकाश,
सचिव ।

Bill No. 10 of 1978.

THE HIMACHAL PRADESH DEBT REDUCTION (AMENDMENT) BILL, 1978

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

to amend the *Himachal Pradesh Debt Reduction Act, 1976* (Act No. 31 of 1976).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the *Himachal Pradesh Debt Reduction (Amendment) Act, 1978*.

Short title
and com-
mencement.

(2) It shall come into force at once.

2. For clause (i) of section 2 of the *Himachal Pradesh Debt Reduction Act, 1976*, the following clause (i) shall be substituted, namely:—

Amendment
of section 2.

“(i) ‘bank’ means,—

- (a) a banking company as defined in the *Banking Regulation Act, 1949*;
- (b) the *State Bank of India* constituted under the *State Bank of India Act, 1955*;
- (c) a subsidiary bank as defined in the *State Bank of India (Subsidiary Banks) Act, 1959*;
- (d) a *Regional Rural Bank* established under the *Regional Rural Banks Act, 1976*;
- (e) a corresponding new bank constituted under the *Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970*;
- (f) any banking institution notified by the Central Government under section 51 of the *Banking Regulation Act, 1949*;
- (g) the *Agricultural Refinance and Development Corporation* constituted under the *Agricultural Refinance and Development Corporation Act, 1963*;
- (h) the *Agro-Industries Corporation* as defined in sub-section (c) of section 2 of the *Himachal Pradesh Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1972*;
- (i) the *Agricultural Finance Corporation Limited*, a company incorporated under the *Companies Act, 1956*; and
- (j) any other financial institution notified by the State Government in the *Official Gazette* as a bank for the purpose of this Act;”

31 of 1976

10 of 1949

3 of 1955

38 of 1959

21 of 1976

5 of 1970

10 of 1949

10 of 1963

7 of 1973

1 of 1956

STATEMENT OF OBJECTS AND REASONS

The definition of the term 'bank' as given in clause (i) of section 2 of the Himachal Pradesh Debt Reduction Act, 1976 (Act No. 31 of 1976) which has been adopted from the Himachal Pradesh Agricultural Credit Operations and Miscellaneous Provisions (Banks) Act, 1972 (Act No. 7 of 1973) does not include the Regional Rural Banks which have come into existence after the enactment of Act No. 7 of 1973. These Banks are also required to be excluded from the operation of the Himachal Pradesh Debt Reduction Act, 1976, for the purposes of "loans" as defined under section 2(iv) of the Act. Besides, in the aforesaid definition of "bank" the references to "the Agricultural Refinance Corporation" and "Agricultural Refinance Corporation Act, 1963" continue to appear, whereas these references have now been changed to "the Agricultural Refinance and Development Corporation" and "the Agricultural Refinance and Development Corporation Act, 1963" respectively. This also requires the consequential amendments in the Himachal Pradesh Act No. 31 of 1976.

The Bill seeks to achieve the said objective.

The SIMLA : , 1978.

JAGDEV CHAND,
Minister-in-charge.

FINANCIAL MEMORANDUM
Nil

MEMORANDUM REGARDING DELEGATED LEGISLATION
Nil

शिमला-171004, 6 अप्रैल, 1978

संख्या 1-21/78-वि0 स0.—हिमाचल प्रदेश विधान सभा प्रक्रिया एवं कार्य संचालन नियमावली के नियम 135 के अन्तर्गत, दा इंडियन स्टैम्पस (हिमाचल प्रदेश अमेन्डमेंट) बिल, 1978 (बिल नम्बर 13 आफ 1978) जो हिमाचल प्रदेश विधान सभा में 6 अप्रैल, 1978 को पुरःस्थापित किया गया, सर्वसाधारण की सूचनार्थ राजपत्र में मुद्रण हेतु प्रेषित किया जाता है।

वेद प्रकाश,
सचिव।

Bill No. 13 of 1978.

**THE INDIAN STAMP (HIMACHAL PRADESH AMENDMENT)
BILL, 1978**

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A
BILL

further to amend the Indian Stamp Act, 1899 (Central Act No. 2 of 1899) in its application to Himachal Pradesh.

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Stamp (Himachal Pradesh Amendment) Act, 1978.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of Himachal Pradesh.

(3) It shall come into force at once.

2 of 1899.

2. At the end of Schedule I-A to the Indian Stamp Act, 1899, in its application to the State of Himachal Pradesh, the following proviso shall be added, namely:—

Amendment
of Schedule
I-A.

“Provided that the proper stamp duty prescribed in this Schedule shall be increased by ten per cent on instruments, where the consideration is rupees ten thousand or above, except on the instruments mentioned against articles 9, 11, 13, 14, 27, 37, 47, 49, 51, 52, 53 and 62.”

STATEMENT OF OBJECTS AND REASONS

In order to meet the increased expenditure in various developmental schemes for ensuring speedy development of this Pradesh, additional funds are required to be raised by augmenting the resources of the State. The Government has decided to increase the rates of stamp duty by 10% on the instruments, where consideration is rupees ten thousand or above, by amending the Schedule I-A to the Indian Stamp Act, 1899, in its application to the State of Himachal Pradesh.

This Bill seeks to achieve the aforesaid objective.

The SIMLA:
, 1978.

JAGDEV CHAND,
Minister-in-charge.

FINANCIAL MEMORANDUM

Under clause 2 of the Bill, enhanced rates of stamp duty by 10% on the instruments, where consideration is rupees ten thousand or above shall be charged. This will yield additional revenue to the State Government to the extent of Rs. 4 lakhs per annum. There will, however, be no additional expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Nil

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

(Revenue Department File No. 5-10/74-Rev. A)

The Governor, Himachal Pradesh, having been informed of the subject matter of the Indian Stamp (Himachal Pradesh Amendment) Bill, 1978, recommends, under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly.

शिमला-171004, 6 अप्रैल, 1978

संख्या 1-22/78-वि0स0.—हिमाचल प्रदेश विधान सभा प्रक्रिया एवं कार्य संचालन नियमावली के नियम 135 के अन्तर्गत, हिमाचल प्रदेश टैक्सेशन (आन सरटेन गुड्ज कैरिड बाई रोड) (अमेण्डमेण्ट) बिल, 1978 (बिल नम्बर 14 आफ 1978) जो हिमाचल प्रदेश विधान सभा में 6 अप्रैल, 1978 को पुरःस्थापित किया गया, सर्वसाधारण की सूचनार्थ राजपत्र में मुद्रण करने के लिए प्रेषित किया जाता है ।

वेद प्रकाश,
सचिव ।

Bill No. 14 of 1978.

THE HIMACHAL PRADESH TAXATION (ON CERTAIN GOODS CARRIED BY ROAD) (AMENDMENT) BILL, 1978

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

to amend the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Act, 1976 (Act No. 34 of 1976).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh Taxation (On Certain Goods Carried by Road) (Amendment) Act, 1978. Short title and commencement.

(2) It shall come into force at once.

2. In sub-section (1) of section 3 of the Himachal Pradesh Taxation (On Certain Goods Carried by Road) Act, 1976 (hereinafter referred to as the principal Act) after the words "net weight" and before the words "for the purposes" the sign "," and the words "value, volume and species of goods" shall be inserted. Amendment of section 3.

3. In the Schedule to the principal Act, after goods at serial number 9, the following goods as serial numbers 10, 11, 12, 13 and 14 shall be added, namely:— Amendment of Schedule.

- | | |
|--|--------------------------------------|
| "10. Potatoes contained in bags upto 40 kg capacity .. | 50 paise per bag. |
| 11. Potatoes contained in bags of more than 40 kg and upto 80 kg capacity .. | Re. 1.00 per bag. |
| 12. Potatoes contained in other package or loose .. | 50 paise per 40 kg. or part thereof. |

13. TIMBER—

(a) SAWN AND HAKRIES;

(ALL SIZES) :

- | | | |
|---------------|----|--------------|
| (i) Deodar .. | .. | Rs. 50 cu.m. |
| (ii) Kail .. | .. | Rs. 40 cu.m. |
| (iii) Chil .. | .. | Rs. 35 cu.m. |
| (iv) Fir .. | .. | Rs. 30 cu.m. |

(b) LOGS (ALL SIZES):

- | | | |
|---------------|----|--------------|
| (i) Deodar .. | .. | Rs. 35 cu.m. |
| (ii) Kail .. | .. | Rs. 28 cu.m. |

(iii) Chil	..	..	..	Rs. 25 cu.m.
(iv) Fir	..	..	..	Rs. 20 cu.m.

(c) BALLIES (ALL SIZES):

(i) Deodar	..	..	..	Rs. 25 cu.m.
(ii) Kail	..	..	..	Rs. 20 cu.m.
(iii) Chil	..	..	..	Rs. 18 cu.m.
(iv) Fir	..	..	..	Rs. 15 cu.m.

14. OTHER FOREST PRODUCE—

(a) Bamboo	..	..	..	Rs. 1.50 per quintal
(b) Katha	..	..	..	Rs. 1.50 per quintal
(c) Resin	..	..	..	Rs. 12.50 per quintal
(d) Dioscorea	..	..	..	Rs. 14 per quintal
(e) Barberies	..	..	..	Rs. 10 per quintal
(f) Carum Carvi (Kala Zeera)	..	..	..	Rs. 200 per quintal (dry)
(g) Emblica officianale (Amla fruit)	..	..	..	Rs. 2.50 per quintal (dry)
(h) Centiana Karru (Kaur)	..	..	..	Rs. 25 per quintal (dry)
(i) Jurinea macrocephala (Dhoop)	..	..	..	Rs. 5 per quintal (dry)
(j) Juglans regia (Akhrot bark and fruit)	..	..	..	Rs. 10 per quintal (dry)
(k) Morchella esculenta (Guchies)	..	..	..	Rs. 2,000 per quintal (dry)
(l) Picrorhiza Karrosa (Kaur, Karu)	..	..	..	Rs. 25 per quintal (dry)
(m) Rawalfia serpentina (Rauwplfia)	..	..	..	Rs. 250 per quintal (dry)
(n) Saussurea lappa (Kuth)	..	..	..	Rs. 15 per quintal (dry)
(o) Terminalia chebula (Harr fruit)	..	..	..	Rs. 10 per quintal (dry)
(p) Violas erpens, Viola odorata [Banafsha]	..	..	..	Rs. 50 per quintal (dry)
(q) Reetha	..	..	..	Rs. 10 per quintal (dry)
(r) Chilgoza	..	..	..	Rs. 75 per quintal (dry)
(s) Terminalia belerica [Bahera (fruit)]	..	..	..	Rs. 10 per quintal (dry)
(t) Bhabar grass	..	..	..	Rs. 0.50 per quintal (dry).

STATEMENT OF OBJECTS AND REASONS

The Himachal Pradesh Taxation (On Certain Goods Carried by Road) Act, 1976 and the Schedule appended thereto, only levies tax on fruits. Now in order to mobilise additional resources, for the development purposes, it has been decided to levy a tax on other goods like potatoes, timber and other forest produce such as bamboo, Katha, dioscorea and herbs, etc., which are carried by road. For this purpose the amendment in the said Act, is essential.

This Bill seeks to achieve the aforesaid object.

SIMLA:

The....., 1978.

JAGDEV CHAND,
Minister-in-charge.

FINANCIAL MEMORANDUM

Clause 3 of the Bill, provides for the levy of tax on more goods. With the insertion of potatoes, timber and other forest produce in the Schedule to the principal Act, an additional annual income of Rs. 1 crore 28 lakhs, is likely to accrue. For the collection of the proposed tax, the existing staff at the multipurpose barriers, through which the goods will pass, shall have to be increased and as such an extra expenditure to the tune of Rs. 30 thousand per annum has to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to amend the provisions of sub-section (1) of section 3 of the Act so as to enable the State Government, by framing rules under section 14, to prescribe the manner under which weight, value or volume of the goods has to be determined for the purposes of assessment of the tax under the Act. This delegation is essential and is of normal character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[Excise and Taxation Department File No. EXN.F(18)-1/76 (Sectt.)]

The Governor of Himachal Pradesh, having been informed of the subject matter of the Himachal Pradesh Taxation (On Certain Goods Carried by Road) (Amendment) Bill, 1978, recommends, under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly.

